

## **IC 35-33-11**

### **Chapter 11. Emergency Transfer of Certain Jail Inmates**

#### **IC 35-33-11-1**

##### **Inmate in county jail in imminent danger of serious bodily injury or death or represents substantial threat to safety of others**

Sec. 1. Upon motion by the:

- (1) sheriff;
- (2) prosecuting attorney;
- (3) defendant or his counsel;
- (4) attorney general; or
- (5) court;

alleging that an inmate in a county jail awaiting trial is in danger of serious bodily injury or death or represents a substantial threat to the safety of others, the court shall determine whether the inmate is in imminent danger of serious bodily injury or death, or represents a substantial threat to the safety of others. If the court finds that the inmate is in danger of serious bodily injury or death or represents a substantial threat to the safety of others, it shall order the sheriff to transfer the inmate to another county jail or to a facility of the department of correction designated by the commissioner of the department as suitable for the confinement of that prisoner and provided that space is available. For the purpose of this chapter, an inmate is not considered in danger of serious bodily injury or death due to an illness or other medical condition.

*As added by Acts 1981, P.L.298, SEC.2.*

#### **IC 35-33-11-2**

##### **Posttransfer hearing**

Sec. 2. The inmate or receiving authority is entitled to a posttransfer hearing upon request. The inmate may refuse a transfer if the only issue is his personal safety.

*As added by Acts 1981, P.L.298, SEC.2.*

#### **IC 35-33-11-3**

##### **Overcrowding or inadequacy of local penal facility**

Sec. 3. Upon petition by the sheriff alleging that:

- (1) the local penal facility is overcrowded or otherwise physically inadequate to house inmates; and
- (2) another sheriff or the commissioner of the department of correction has agreed to accept custody of inmates from the sheriff;

the court may order inmates transferred to the custody of the person who has agreed to accept custody. Whenever a transfer order is necessary under this section, only inmates serving a sentence after conviction for a crime may be transferred, unless the overcrowding or inadequacy of the facility also requires transfer of inmates awaiting trial or sentencing.

*As added by Acts 1981, P.L.298, SEC.2.*

**IC 35-33-11-4****Return to county jail**

Sec. 4. Whenever the court finds that the circumstances which necessitated a transfer under this chapter no longer exist, it shall order the sheriff to return the inmate to the county jail from which he was transferred.

*As added by Acts 1981, P.L.298, SEC.2.*

**IC 35-33-11-5****Transportation to and from facilities; payment of costs by county**

Sec. 5. When an inmate is transferred under this chapter, the sheriff of the county from which the inmate is transferred shall be responsible for transporting the inmates to and from the other facility. If the sheriff is unable to adequately protect the inmate during the transfer, the sheriff or the court may request assistance from any other law enforcement agency. The county which transfers an inmate shall pay:

- (1) a per diem of the average daily cost of housing a prisoner at the facility to which the inmate has been assigned; and
- (2) any additional costs reasonably necessary to maintain the health and welfare of a transferred inmate.

*As added by Acts 1981, P.L.298, SEC.2.*

**IC 35-33-11-6****Delivery of data with prisoner**

Sec. 6. When an inmate is transferred under this chapter, the sheriff of the county from which the inmate is received shall deliver with the prisoner a certified copy of the order, a current medical report, if available, and other data relating the proper medical care and classification of the inmate that is established as necessary by written policy of the department of correction or the receiving institution, pertaining to the health, safety, and proper confinement of safekeepers.

*As added by Acts 1981, P.L.298, SEC.2.*

**IC 35-33-11-7****Notice of subsequent transfer**

Sec. 7. The department of correction will notify the sheriff of the county and judge of the court from which the inmate was transferred of any subsequent transfer of a prisoner within the department of correction necessary to assure the purposes of the original transfer.

*As added by Acts 1981, P.L.298, SEC.2.*

**IC 35-33-11-8****Assignment of prisoners serving sentence to program or work**

Sec. 8. Prisoners serving a sentence after a conviction and transfer to the department or other receiving institution may be assigned to any program or work consistent with procedures and requirements for other prisoners committed to the department or other receiving institution.

*As added by Acts 1981, P.L.298, SEC.2.*

**IC 35-33-11-9**

**Assignment of prisoners awaiting trial to program or work**

Sec. 9. Prisoners awaiting trial may be allowed to work or be assigned to programs consistent with the rights regarding prisoners awaiting trial.

*As added by Acts 1981, P.L.298, SEC.2.*

**IC 35-33-11-10**

**Discipline of prisoners awaiting trial**

Sec. 10. The department of correction or other receiving sheriff may discipline prisoners awaiting trial as authorized under IC 35-50.

*As added by Acts 1981, P.L.298, SEC.2.*